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THE ADMINISTRATIVE ORGANIZATION OF THE COURTS

WILLIAM McADOO

Chief City Magistrate

THE subject of the magistrates' court is so large that it is possible to touch only on some phases of it. For instance, the night court for women is an interesting subject in itself; that court is a novelty, there being no other such court in any part of the world. The night court for men and the domestic relations court are also interesting. The domestic relations court was an innovation and was not known elsewhere until the passage of the law of 1910. So successful has it been that it has been duplicated in Chicago, and it now seems to occupy a place in nearly all large cities, not only in this country but in other countries. That is the court where the men who have broken domestic china fix it up the best they can. Again, there is the system of probation in these courts, which has been made a centralized one and is entirely different from any other probation system so far as I know. It has been in operation now about two years and seems to be a marked improvement on the lack of system which preceded it. There are so many interesting phases of the work of these courts that it is difficult to give you a fair idea of that work as a whole.

A larger number of people are interested in the magistrates' court than in any other court in the city of New York. In round numbers, last year about one hundred thirty-seven thousand people were arraigned in the magistrates' courts of Manhattan and The Bronx. That is somewhat of a decrease from the preceding year. About one hundred thousand of these were arraigned for minor offenses of which the magistrate had summary and final jurisdiction. About thirty-five or thirty-seven thousand were for more or less serious offenses, either felonies or misdemeanors. In order to understand the volume of business done by these courts, it is necessary to add to these figures the constant train of people who go into the courts with complaints.

Under the rules of the court, when it opens in the morning the officer in attendance asks those present whose complaints have not been taken by the clerk to come forward and state their grievances to the magistrate. It is a sort of "O hear yé, O hear ye! all ye who have business, come forward now and it will be attended to." When this universal invitation is extended to the populace of one of our busy courts, you can rest assured that the citizens are not backward in coming forward. The magistrate then really is a Cadi such as you read about in Oriental tales. Here is a lady who has a grievance against the lady living across the hall in the tenement house,—not a very serious matter. She has been to court on the preceding day and secured a summons which in general terms states that the other lady was guilty of "disorderly conduct," which, like charity, covers a multitude of sins. Both ladies are inclined to talk at once and talk volubly and emphatically, and their opinions of each other are not complimentary. I have found that the best way is to allow them to talk until they are thoroughly exhausted, at which juncture they are ready to shake hands and go home. The magistrates' court in such cases is simply a safety valve, a sort of first aid to the injured in what might result in serious disease. We arrest the development of the wound at once by patching it up and putting a little sticking plaster on it, and the patients go home in many cases perfectly contented.

Then, of course, there are a number of hungry creditors who come in and at once try to make the transaction on the part of the debtor a larcenous one. They insist upon starting the whole machinery of the criminal law in order to force a settlement or collect a debt. All these cases have to be heard, but they do not go into the record as the work of the magistrate. As I say, in view of this variety, the difficulty is to tell you briefly and pointedly just what the magistrates' courts have been, what they are, and what we hope they will be.

For many years preceding 1910, the magistrates' courts in all parts of Greater New York deservedly or otherwise were somewhat in disrepute. The office of magistrate was looked upon as simply one for political preferment, the magistrate to be selected for active partisan services and without regard to merit or character.

The courts themselves were physically badly provided for. Any sort of place was thought fit to be the habitation of a magistrates' court. The buildings which the city had erected for that purpose were grotesque specimens of architecture and the internal arrangement was so complicated that no one could solve it. The whole surroundings were in many instances dirty, vulgar and depressing. The Essex Market court was condemned by many grand juries. These surroundings had their effect not only on the magistrates and the officers but on those who came to the courts.

The magistrates' courts in those days were officered by policemen. The policeman in a magistrate's court, generally speaking, got himself detailed to that business by personal or political influence. He was a large and stolid looking gentleman of the fetlock type, and his manner toward the court and all concerned with it was that of a proprietor. These policemen acted as the court attendants. They were also probation officers assigned to each individual magistrate, and they had charge of the prisoners from the time they came to the court until they left. Some of these worthy persons had been in some of the courts from ten to fifteen years, during which time their colleagues on the force had been chasing burglars or had got shot by desperate criminals, but they themselves persisted in the easy occupation of rattling the ice-pitcher in the summer and the radiator in the winter and getting the confidence and favor of the judge in every possible way.

The courtrooms themselves were marvellous pieces of judicial construction, if I may use that term. A portion of the courtroom called the bar was separated from the audience by a large wire screen about ten feet high. A small platform raised about a foot from the ground in front of the bench was called the bridge. On this bridge or small platform, or immediately adjacent thereto, when the court was in active operation, were gathered the prisoner, the lawyers, the policemen, the interpreter, the stenographer, and possibly a friend of the defendant who was there to assure His Honor that although the charge might be burglary, the defendant was a loving father, a kind husband, an affectionate brother and a model citizen.

Of course, with this cluster of people around the magistrate

it was impossible to see him at all. The whole proceedings were carried on in a delightful air of seclusion. The outside public heard nothing of the proceedings. The tone of voice was modulated and low, and the distance between the magistrate and those speaking to him was but a matter of a few inches. The defendant himself was generally relegated to the rear of the bridge, so that he never knew what happened to him until the large, stout policeman either gave him a punch in the back and told him to go out or took him down-stairs again. His part in the play was small. The policemen who acted as ushers were generally critical of citizens who intruded. There was an air of privacy about the court. Most of the cases were taken to lawyers by men called "runners" who were looking for business for them, so that if a well-dressed person came to the court, the runner was supposed to size up his financial possibilities for the lawyer employer and direct the steps of the citizen to this lawyer's office where he would be well taken care of. In this way, of course, an ordinary citizen going in was intruding. A singular thing was that those large, fat policemen resented anything like fresh air. The old family air of the court was carefully kept. The windows were rarely opened; this was to prevent the intrusion of oxygen or the escape of the ancient "court atmosphere."

The places where the prisoners are brought before their cases are called detention rooms or pens. In those days they were pens indeed. The police were also in charge of those; and some of the policemen made very profitable use of them. If an enterprising policeman had fifty prisoners in the morning in pens, and if he sized up just what each one had, from the amount of actual cash to a diamond ring, and if there was a friendly lawyer outside to whom he could direct the clients, it is safe to assume there would be a division afterwards of the profits. That was a source of great revenue to some people.

These pens were filled by letting down the police net into the deep waters of the underworld and bringing up its strange catches. The police nets are put down just like other nets to catch fish, and of course they bring up all kinds. Among the ordinary drunks and disorderlies or more serious offenders there might be a well-dressed person, a woman or a man who had never been in such a

place before. A shrewd attendant would at once see the possibilities.

And so with the complaint room. Anybody could go in and out there. Also in the complaint room there was another great public convenience, which the reform injured very much. Sheaves of summonses were kept there in a loose way and anyone could get a bunch of summonses. An instalment-house furniture collector would take a bunch of those and serve them on the widow who had failed to pay the last fifty cents on the bedstead, and say that she would be locked up in Sing Sing if she didn't pay, and, of course, would excite her to pawn her wedding ring or probably the only dress she had or some little household utensil in order to get the money. No account was kept of those summonses, because they were loose. I am glad to tell you that no such things could occur to-day. The summonses are in book form and properly numbered. Each one has its own distinct number and the stub of the book must show what has become of the writ. In that and other ways we have put a stop to that and other infamous practises.

Prior to 1910, when the public had become aroused to these conditions and when the police moreover had begun to tell the citizens that the reason they were not more efficient in putting down crime was because they were not getting the support of the judges, certain disinterested citizens arose and demanded that these courts be reformed. Prominent among those were Mr. Bronson Winthrop, Mr. Philip McCook, Mr. Otto Bannard, Mr. Lawrence Veiller and a number of the very best citizens of New York, men of whom any community ought to be proud. These men went to Albany and insisted that something be done. Thereupon a joint resolution was passed appointing a commission known afterwards as the Page commission, because Senator Page, now a justice of the supreme court, was the head of it. Mr. Julius Mayer, now judge of one of the United States courts, was counsel. They took a great deal of testimony, filling several volumes, as to the actual conditions in the magistrates' courts, as to what abuses existed and what were the remedies. The law of 1910 was based on their report. The law provided, among other things, for the present office of chief city magistrate. Up to that time, the board of magistrates elected their own president,

and they met in a desultory sort of way. They had no centralized location, and after the meeting of the board had adjourned the officers went back into the courts. There was no real settled headquarters. Under the present law of 1910, the administrative and executive features of the court are centralized in the office of the chief city magistrate. From there all the supplies go out to the courts; all the physical conditions are looked after; the employes are held to strict accountability; all public complaints are investigated; close touch is kept with all departments of the city government; all statistics are received daily: all reports are made; a large correspondence is conducted; nearly all pistol permits are issued. From there the working in detail of all the courts is carefully watched day by day. From there certain assignments are made to the night court for women and the domestic relations court. The power and influence of the office are great. It is a positive advantage to the magistrates, who are practically freed from all business but the exercise of their judicial functions.

When this centralized system was first proposed in the bill, many otherwise excellent magistrates were opposed to it. They were not to blame for the existing conditions. It was as hopeless as making bricks without straws, and they had become used to the conditions under which they lived and hopeless as to any reformatory measures ever being passed to better things. No one magistrate could have done anything to stem the tide that ran through these tribunals, and the magistrates, therefore, in a sort of sodden despair, had settled down to accept things as they were. People active in politics showed no interest whatever in removing these courts from the stagnant and deadly condition into which they had fallen. The office of chief city magistrate principally excited apprehension. Were the magistrates to have a judicial boss? Was there to be someone installed with the mighty title of chief city magistrate who would invade their rights and prerogatives, reverse them, and hold them up to public scorn? None of these dreadful things happened. The present system works smoothly and effectively. The Page law properly demanded that the police should be taken out of the court, and that in their place civilian employes coming from the civil service commission on certified lists should be selected. There were many well-meaning and

honest magistrates who thought this would be a terrible innovation. They believed that no one but a policeman could preserve order in a magistrate's court. One magistrate advised me that on the first day of October, 1910, I should call upon the citizens' *posse comitatus* to preserve order when the police vacated. We have now for five years had civilian instead of police attendants, and there is no one connected with these courts who would dare say that they are not a vast improvement upon the police. They are particularly amenable to the chief city magistrate for discipline. If any one of you will tell me that one of them has been guilty of the slightest discourtesy, I will take the case up at once. The infrequency of complaints from citizens demonstrates the wisdom of the change from police to civilians.

Physical changes were demanded, but as is usual with government, no money was provided. The bridges were taken out; the sacred bridge was removed. The wire netting which obscured the vision of the citizen and gave that family air to the proceedings was taken down. It had been put up in the first place, I was told, to keep burglars from walking down the center aisle and escaping. No burglar has as yet walked down the center aisle. The witness chair was removed to a respectable distance from the magistrate so that the witness might be compelled to speak up and possibly a citizen interested in the proceedings might hear somewhat of the evidence. The detention pens were reserved exclusively for the purposes for which they were intended, no one being allowed to go near them except the officers in charge. No one was allowed to approach any person in the courtroom without being apprehended and brought before the magistrate, so that to-day you can go into any of these courtrooms and be treated with as much courtesy as if you were in the Supreme Court in Washington. The magistrates had resolved some time before that that they should wear gowns. Later, a custom was established of having the people rise as they do in the higher courts when the magistrate ascends the bench. All this has proved good.

These courts are the conservators of the public peace, the correctors of criminals and delinquents, and in my judgment the greatest educational institutions in the United States. New York has been called the melting pot of the nation, and into these courts

goes a steady stream of people who do not speak our language, do not know our laws and are alien to our traditions. If the immigrant who came from southeast Europe yesterday and landed on our shores goes into these courts on the morrow, he then gets his first impression of American government, and it ought to be of the best. Many of these people come to this country bitterly resentful of governmental interference, hating the laws under which they lived and suspicious of all officers who are interested in its execution. If such a man is treated with courtesy, kindness and substantial justice, he has respect for the new country to which he has come. You have converted him at the start into the makings of a good American citizen. You have touched his heart by a change in the manner of treatment from that to which he was accustomed in his home. But if he runs across discourtesy and injustice, if the incidents and the atmosphere of the place suggest something worse, he believes your government no better than that which he has left, and his hatred of the law is intensified. After a first probationary period, these people go from New York to all other parts of the United States. Your magistrates' courts are therefore educational institutions for vast numbers of those who are to be the future citizens of this country and decide its fate at the ballot box. It is for that reason that I have always resented the sordid surroundings of the courtrooms. Whatever faults government may have had in the old world, it was been careful to house the judiciary respectably and with dignity. The ignorant immigrant who is taken down to our Third Court on Second avenue, with its sordid vulgarity, its necessary dirt, its unventilated pen, and its cheap and tawdry ornamentation, is not impressed with the courtroom nor the judges as he should be, simply because of the physical surroundings. I have therefore most earnestly labored in my present office to the end that the city should properly house these exceedingly important courts.

The magistrate holds a clinic every day and night in the year. Here is where we give first aid to the injured, as I intimated a moment ago. We bind up the fresh wounds and pass the patients along if necessary to the higher operators in the courts above. We are the strongest force for law and order in New York, not excepting the police, because the police cannot be efficient unless there is

hearty, earnest, friendly co-operation between them and the magistrates.

When I was police commissioner (for my sins), there was a lack of harmony and almost an atmosphere of animosity between the magistrate and the policeman. I have lived to see wondrous changes in my time. The other day, every magistrate in this division signed a letter to the present police commissioner declaring that police conditions in New York are excellent and that he is the best of police commissioners. When I was police commissioner, what some of the judges and magistrates said about me almost equaled what I thought about them. If I had ever received such a thing as my good friend, Mr. Woods, got the other day, I should have known that the world is a much better place than Mr. Sunday says it is. Under the present system we have established a harmonious and earnest co-operation between the police and the magistrates.

The custom on the part of a few magistrates in the bad old times was to speak disparagingly of the policeman. I was never so much impressed with the difference between the relationship of police and magistrates in New York and in London as during my visit a few years ago to the latter city and the Bow Street Court there. In the first place, the officer of the Bow Street Court stands about twenty or thirty feet back from the magistrate and talks in a loud tone of voice. Our fellows used to whisper. In Bow Street: "Your Worship, about half-past eight last night, I saw the defendant standing in front of the Gaiety Theater and I asked him to move on. In about half an hour he was still standing there and I said to him again he must move on, and he did not."—"Do you think five shillings would be sufficient?"—"Oh, yes, Your Worship, I think five shillings would be enough."—"Five shillings."—And he passes on. In the old days examples quite contrary to this could be readily produced here in New York, but why bring up painful memories of too many good magistrates?

Now we have fallen on happier and better days. We have brought these courts up to a great deal higher plane than they ever occupied before. The office of magistrate has been exalted as it should be to a very responsible one; for there is no public officer in New York who can do more good or more evil in one day

than a city magistrate. If he is a man of heart and good conscience, he will feel appealed to every hour that he sits on the bench. The worthy poor person who has no friends and no influence to succor him in his distress,—he must do justice by him. He must execute the impartial administration of the law as between poor and rich so that all people shall stand equal before him. He must put the heavy hand of the law upon the professional criminal and the designedly bad man or woman trespassing on the rights of the community and endangering its safety. To be the sword of justice on the one side and the helping hand of mercy and benevolence on the other is the office of a true magistrate. There is no place in or out of New York where such immense opportunities are afforded of studying human nature and actual communal conditions as in a magistrate's court. There ought to be a law compelling all legislators and congressmen to serve a probationary period in one of our magistrates' courts in order that they might understand the actual conditions of life for a great majority of our people. We have now advanced these courts physically and morally. We have brought into its true light the responsibility of the magistrate.

But latterly in the working of the system we have become aware that there is a lack of symmetry and centralization in the courts of criminal first instance. We have been re-trying the same cases. The boy who stole a pigeon, the woman who picked up a hairpin in a department store, the man who purloined a bottle of milk, the angry man who resented being called a liar and hit the other fellow on the nose, even the angry cook who had thrown a skillet at the mistress, and a big host who violated city ordinances, were all bundled into these courts and after one examination which amounted to a full trial were re-tried in the court of special sessions. I am glad to tell you that to-day, from the news that comes from Albany, there has been given to the magistrate a substantial enlargement of power. As the law stands to-day, if we follow the construction of one of our eminent judges we cannot try the woman who throws waste paper into the street. In the sanitary code, throwing paper in the streets, spitting on the sidewalks and smoking in the subway are designated as misdemeanors, and when you put the sacred name of misdemeanor on an offense, the magistrate

is not supposed to be of the intellectual caliber to try it. So if Mrs. Einstein down in Hester street has thrown a quantity of light chaff into the street, he can only say to her: "Mrs. Einstein, I can give you an examination which will amount to a trial, and if I hold you, you will go down to Center street and be tried by three learned judges for this heinous offense." Under the labor law, smoking a cigarette in a factory is considered dangerous. Where the offender in such a case is apprehended, we cannot even take the plea of guilty. I am glad to tell you that we have achieved for the people of New York a remarkable victory in the legislature, and if the measure is approved by the mayor and governor these powers will have been given to the magistrate.

The idea in the bill passed is that the whole thirty-eight magistrates in Greater New York shall be made into one board instead of two boards, and that one chief magistrate shall preside over that board. I look forward to the time when the magistrates' courts in New York will be models for all the rest of this country. I look forward to the time when these courts, centralized and systematized in their machinery and their administrative work as well as in their judicial functions, will give to the people of New York the best administration of the criminal law that can be had. I rejoice now that in the co-operation of the police and the magistrate, in the enlightenment of public opinion, in the good will of such people as are here to-day, the magistrates must all be encouraged to go forward still further in the advancement of these most important courts. Constant vigilance, persistent progress, continuous betterment, with an enlightened public opinion working with us—and these courts can be made models for doing substantial and exact justice, and making for peace, order, a higher degree of communal decency, and personal and public safety.